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Attorney for WELLS FARGO BANK, N.A.

IN THE UNITED STATES BANKRUPTCY
COURT FOR THE SOUTHERN DISTRICT OF
TEXAS HOUSTON DIVISION

IN RE:	§ CASE NO. 19-30599-H2-13
	§
WALTER ANTHONY ESTEFAN and	§
MIRIAM ROSARIO ESTEFAN,	§
Debtors	§ CHAPTER 13

OBJECTION TO CONFIRMATION OF DEBTORS' CHAPTER 13 PLAN

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSLY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW WELLS FARGO BANK, N.A. (hereinafter "Creditor"), a secured creditor in this bankruptcy case, and files its Objection to Confirmation of the Debtors' Chapter 13 Plan. In support thereof, Creditor would allege as follows: I.

Creditor is the secured servicer in this bankruptcy case. On or about February 28, 2006, WALTER ANTHONY ESTEFAN and MIRIAM ROSARIO ESTEFAN executed a Note payable to WORLD SAVINGS BANK FSB FEDERAL SAVINGS, in the original principal

amount of NINETY-ONE THOUSAND ONE HUNDRED DOLLARS AND ZERO

CENTS, (\$91,100.00). The Note and Lien were assigned to Creditor. The Note is secured

by a first lien Deed of Trust on property described to wit:

LOT SEVEN (7) BLOCK THREE (3) OF AMENDING TIMBERGATE, SECTION ONE (1) A SUBDIVISION IN HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER FILM CODE NO 417131 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS

ALSO BEING A 0.0019 ACRE TRACT OF LAND OUT OF THE T.T R.R. COMPANY SURVEY, ABSTRACT NO 1160 AND THE BLAS HERRERA SURVEY, ABSTRACT NO. 321 HARRIS COUNTY, TEXAS AND BEING FURTHER DESCRIBED AS OUT OF LOT 8 BLOCK 3 OF THE AMENDING PLAT OF TIMBERGATE SECTION ONE, AS RECORDED IN FILM CODE NO. 371008 OF THE HARRIS COUNTY, MAP RECORDS, HARRIS COUNTY TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS-

BEGINNING AT A 5/8" IRON ROD (FOUND) IN THE WEST LINE OF TAMARAK PLACE, A 50 FOOT WIDE PUBLIC UTILITY EASEMENT LYING ON A CURVE TO THE RIGHT HAVING A RADIUS OF 300 FEET A CENTRAL ANGLE OF 00 DEGREES 21' 33" AND A CHORD BEARING OF S 13 DEGREES 04' 46" E 1.88 FEET, AND BEING THE NORTHEAST CORNER OF LOT 8 BLOCK 3 THE SOUTHEAST CORNER OF LOT 7 BLOCK 3 AND THE NORTHEAST CORNER OF THIS TRACT

THENCE ALONG SAID CURVE THE WEST LINE OF TAMARAK PLACE, AND THE EAST LINE OF LOT 8, 1.88 FEET TO AN IRON ROD (FOUND) FOR THE POINT OF TANGENCY AND THE SOUTHEAST CORNER OF THIS TRACT

THENCE S 77 DEGREES 27' 58" W, ACROSS LOT 8, 88.00 FEET TO AN IRON ROD (FOUND) IN THE EAST PROPERTY LINE OF LOT 4 BLOCK 3, THE NORTHWEST CORNER OF LOT 8, THE SOUTHWEST CORNER OF LOT 7 AND BEING THE WEST CORNER OF THIS TRACT;

THENCE N 76 DEGREES 14' 31" E ALONG THE COMMON PROPERTY LINE OF LOTS 7 AND 8, 88.00 FEET TO THE POINT OF BEGINNING

BEING THE SAME PROPERTY CONVEYED TO WALTER A. ESTEFAN AND MIRIAM R. ESTEFAN BY DEED FROM GATEWAY HOMES, INC RECORDED 04/11/2000 IN DOCUMENT NO. U328802, IN THE REGISTER'S OFFICE OF HARRIS COUNTY, TEXAS.

II.

On the date Debtors filed the petition for an Order of Relief, the Note was in default. Creditor has not yet filed a Proof of Claim. Creditor estimates that the claim, when filed, will have arrears in the amount of \$11,049.11. The claim is secured by the Debtors' homestead and primary residence. Creditor is in the process of preparing its Proof of Claim. Creditor asserts this Objection to preserve its rights and to assist in the efficient administration of the confirmation process.

III.

Debtors' Chapter 13 Plan proposes to pay \$7,500.00 over 60 months at 0.000% interest for the pre-petition arrears owing to Creditor and lists the ongoing monthly mortgage payment at \$1,062.46. Creditor objects to the proposed treatment because the Plan:

- Fails to satisfy Creditor's Claim pursuant to the terms of the Note and Deed of Trust.
- Does not provide for full payment of the Creditor's allowed secured claim.
- Fails to timely cure the default reflected in the Claim as required in 11 U.S.C. §1322 (b)(5).
- The proposed Plan does not pay the full arrearages due and owing on the Note. Creditor objects to confirmation of the Chapter 13 Plan pursuant to 11 U.S.C. §1325 (a)(5)(II) because the Plan does not distribute to Creditor an amount equal to the value of Creditor's allowed secured claim in that no provision is made for the payment of the pre-petition arrearages owed to Creditor on its allowed secured claim.
- Based on the Debtors' Chapter 13 Plan Summary, Schedules, and other Pleadings on file with this Court, the Debtor is not capable of funding a confirmable Plan and will not be able to make all payments that will come due under the Plan. The Plan is therefore not feasible.

IV.

Confirmation should be denied as the Plan does not meet the requirements of 11 U.S.C. §1325(a).

WHEREFORE, Creditor prays that this Court deny confirmation of the Debtor's Chapter
13 Plan.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ MITCHELL BUCHMAN
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ATTORNEY FOR CREDITOR

CERTIFICATE OF SERVICE

I hereby certify that on March 05, 2019, a true and correct copy of the Objection to Confirmation of Debtor(s) Chapter 13 Plan was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties listed on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP.

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BY ELECTRONIC NOTICE OR REGULAR FIRST CLASS MAIL:

DEBTORS:

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MIRAIAM ROSARIO ESTEFAN
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HOUSTON, TX 77082

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4006 TAMARACK PL
HOUSTON, TX 77082-7632

DEBTOR'S ATTORNEY:

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TRUSTEE:

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